New Mexico Department of Health
Proposed Adoption of the New Rule 7.35.4 NMAC Medical Psilocybin Treatment Equity Fund
Hearing Date: November 20th, 2026

LIST OF EXHIBITS

1.	Proposed New Rule 7.35.4 NMAC Medical Psilocybin Treatment Equity Fund
2.	Proposed Amendments 7.35.2 NMAC Medical Psilocybin Producer and Laboratory Requirements
3.	Notice of Public Hearing
4.	Affidavit of Publication – Albuquerque Journal
5.	Affidavit of Publication – NM Register
6.	Letter Appointing Hearing Officer
7.	Affidavit of Notice to the Public
8.	Public Comments

TITLE 7 HEALTH
CHAPTER 35 MEDICAL PSILOCYBIN
PART 4 TREATMENT EQUITY FUND

7.35.4.1 ISSUING AGENCY: New Mexico department of health.
[7.35.4.1 NMAC - N, xx/xx/2026]

7.35.4.2 SCOPE: This rule applies to qualified patients seeking financial assistance from the medical psilocybin treatment equity fund, certifying clinicians, practitioners, healing centers, producers, and other persons submitting claims for payment from the fund.
[7.35.4.2 NMAC - N, xx/xx/2026]

7.35.4.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the following statutory authorities: the New Mexico Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, and the Medical Psilocybin Act, Sections 26-2D-7 and 26-2D-11 NMSA 1978.
[7.35.4.3 NMAC - N, xx/xx/2026]

7.35.4.4 DURATION: Permanent.
[7.35.4.4 NMAC - N, xx/xx/2026]

7.35.4.5 EFFECTIVE DATE: xx/xx/2026, unless a later date is cited at the end of a section.
[7.35.4.5 NMAC - N, xx/xx/2026]

7.35.4.6 OBJECTIVE: The objective of this rule is to establish eligibility, covered medical services, reimbursement, claims submission, payment, recordkeeping and audit requirements for the medical psilocybin treatment equity fund. The fund promotes equitable access to medical psilocybin treatment for qualified New Mexico patients who meet the income requirements established by this rule.
[7.35.4.6 NMAC - N, xx/xx/2026]

7.35.4.7 DEFINITIONS: The definitions in 7.35.2.7 NMAC apply to this part.
[7.35.4.7 NMAC - N, xx/xx/2026]

7.35.4.8 PATIENT ELIGIBILITY:

A. A qualified patient may be deemed eligible for assistance from the fund if:

(1) the patient is currently enrolled in the New Mexico medical psilocybin program;

(2) the patient is a resident of New Mexico;

(3) the patient's household income does not exceed 200 percent of the applicable federal poverty guidelines; and

(4) sufficient funds are available in the fund and have been appropriated for the requested purpose.

B. Subject to the allowable amounts and limitations in this rule, the fund may cover up to 100 percent of the allowable amount for a qualified patient.

C. Eligibility for assistance does not create entitlement to payment and does not guarantee that funding will be available for all requested treatment.

D. Treatment equity fund eligibility shall be effective from the date of approval, and shall automatically end under the following circumstances:

(1) the patient's enrollment in the medical psilocybin program expires or is suspended, revoked or withdrawn;

(2) the patient ceases to be a New Mexico resident;

(3) the department finds that the eligibility determination was based on materially inaccurate or fraudulent information;

(4) available funding is exhausted or otherwise unavailable; or

(5) when 12 months have lapsed from the date of funding approval.

[7.35.4.8 NMAC - N, xx/xx/2026]

7.35.4.9 APPLICATION AND VERIFICATION OF ELIGIBILITY:

A. An applicant for funding from the treatment equity fund shall submit an application via the electronic system designated by the department.

B. An application shall include:

(1) the patient's name and medical psilocybin program identification number;

(2) the patient's residential and mailing addresses;

(3) proof of the patient's New Mexico residency in the form of either:

(a) a current and valid New Mexico state-issued identification card or driver's license;

(**b)** a letter of accommodation from a licensed medical or behavioral health provider attesting that the patient is a resident of New Mexico; or

(c) a current and valid identification card from a native American tribe, pueblo, or nation in New Mexico and a utility bill or other documentation that demonstrates residence in New Mexico.

(**4)** proof of income eligibility;

(5) an authorization permitting the department to verify eligibility information;

(6) an attestation that the information submitted is true and complete; and

(7) any additional information reasonably necessary to determine eligibility.

C. An applicant may establish income eligibility by submitting their United States federal tax return for the most recent filing year, or an eligibility verification, approval, certification, or award letter from the respective administering governmental entity that demonstrates current enrollment in either New Mexico Medicaid, the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance for Needy Families (TANF) program, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or the Supplemental Security Income (SSI) program.

[7.35.4.9 NMAC - N, xx/xx/2026]

7.35.4.10 REQUEST FOR REIMBURSEMENT:

A. Before submitting a reimbursement request, the claimant shall make a reasonable and documented effort to obtain payment from all other payers who may be legally responsible for the covered treatment.

B. Requests for reimbursement shall include an attestation that the claimant has pursued reimbursement from other legally liable and potentially liable third parties prior to requesting reimbursement from the treatment equity fund, and was not able to obtain reimbursement. Such third parties may include private insurance, Medicaid, Medicare, and other sources of funding. The request shall include attached proof of denial or ineligibility for reimbursement, which may consist of any of the following:

(1) notification of denial;

(2) an explanation of benefits;

(3) a remittance advice;

(4) documentation that the service or product is categorically excluded from coverage; or

(5) other documentation accepted by the department.

C. A claim shall disclose payments received or reasonably anticipated from another payer. The amount payable from the fund shall not exceed the allowable amount after deducting all confirmed and anticipated payments and credits from other payers.

D. A claimant is not required to submit a claim to an entity that does not legally cover the service or product when the department has documented that the category of service or product is excluded from that entity's coverage.

E. If another payer makes payment after the fund has paid a claim, the claimant shall notify the department within 30 calendar days and return the resultant overpayment to the department.

[7.35.4.10 NMAC - N, xx/xx/2026]

7.35.4.11 REIMBURSEMENT:

A. The reimbursement payment shall be limited to the lesser of:

(1) the claimant's usual and customary charge;

(2) the amount remaining after payment by another payer; or

(3) the applicable New Mexico Medicaid or Medicare reimbursement rate.

B. When no directly applicable Medicaid or Medicare rate exists, the department may establish an allowable amount based on the most analogous Medicaid or Medicare service or payment methodology.

C. For a psilocybin product or other covered item for which no analogous Medicaid or Medicare rate exists, the department shall establish a uniform fee schedule based on documented acquisition cost and reasonable program safeguards.

D. A claimant accepting payment from the fund shall accept the allowable amount as payment in full and shall not bill the patient for the difference between the claimant's charge and the amount paid by the fund.

E. Nothing in this section requires payment for a service or product that is not otherwise covered under this rule.

[7.35.4.11 NMAC - N, xx/xx/2026]

7.35.4.12 ELECTRONIC CLAIM AND INVOICE SUBMISSION:

A. Certifying clinicians, practitioners, producers, healing centers and other authorized claimants shall submit claims through the electronic system designated by the department.

B. A claim shall include, as applicable:

(1) the claimant's legal name, address, tax identification number, and SHARE vendor identification number;

(2) the claimant's department certification or permit number;

(3) the patient's program identification number;

(4) the date, location, and type of each service;

(5) the applicable billing code, service unit (i.e., preparation, administration, or integration session), quantity, and charge;

(6) identification of the individual(s) who furnished each service;

(7) for a psilocybin product, product unique identification number, quantity, and any acquisition charge;

(8) documentation of amounts billed to and received or denied by other payers;

(9) receipts and documentation required for a travel claim using the State of New Mexico mileage reimbursement rate;

(10) the amount requested from the fund;

(11) an attestation that the claim is accurate, the treatment was furnished as reported, no duplicate payment has been requested or received and all other payer payments have been disclosed; and

(12) additional documentation reasonably required by the department.

C. A claimant seeking direct payment shall complete a federal form W-9 and all enrollment documents required for payment through SHARE.

D. A claimant shall submit a claim not later than 180 calendar days after the date of service. The department may extend the deadline upon a showing of good cause.

E. A claimant shall not bill the same service unit more than once. Individuals participating in the same administration-day session may be included separately for distinct services or roles authorized by the department.

F. The department may reject or return an incomplete claim and request correction or additional documentation.

[7.35.4.12 NMAC - N, xx/xx/2026]

7.35.4.13 PAYMENT NOTICE AND INTERNAL TRACKING:

A. The department when issuing a payment shall identify:

(1) the claim number;

(2) name of the claimant; and

(3) the amount paid from the fund.

B. Payment shall be made through SHARE or a successor system designated by the department.

C. The department shall maintain an internal record of each application, authorization, claim, payment, denial, adjustment, hold, suspension, overpayment and recovery.

D. Internal records shall permit the department to identify duplicate billing, monitor available money and evaluate equitable distribution of the fund while protecting patient confidentiality.

[7.35.4.13 NMAC - N, xx/xx/2026]

7.35.4.14 ALLOWABLE EXPENSES FOR TREATMENT EQUITY FUND REIMBURSEMENT:

A. A qualified patient's expenses are eligible for reimbursement for up to a maximum of:

(1) one initial administration session, with a combined total of six preparatory and integrative sessions included;

(2) a second administration session, with a combined total of two preparatory and integrative sessions included; and

(3) a third administration session, with a combined total of two preparatory and integrative sessions included.

B. A qualified patient is eligible for reimbursement for travel expenses when the shortest reasonable one-way distance between the patient's residence and the location of an authorized appointment, healing center or other approved location exceeds 100 miles. Covered travel expenses are limited to reasonable and necessary transportation expenses directly related to covered treatment and shall not exceed the New Mexico department of finance and administration maximum allowable rates for mileage and lodging applicable to public officers and employees. The department may pay:

(1) mileage for use of a privately owned vehicle at the applicable department-approved rate;

(2) the actual cost of public or commercial transportation, not exceeding the least costly reasonable means of transportation; and

(3) lodging expenses.

C. A claim for travel reimbursement shall include:

(1) the patient's residence address;

(2) the treatment location;

(3) the treatment date;

(4) the travel dates;

(5) the distance traveled and method used to calculate mileage;

(6) itemized receipts, except when reimbursement is based on a mileage rate;

(7) documentation connecting the travel to authorized treatment; and

(8) any prior authorization required by the department.

D. Reimbursement for allowable expenses shall be reduced by amounts paid or otherwise available from Medicaid, an insurer, or another payer.

E. The cost of meals, entertainment, and upgrades, as well as personal expenses and costs unrelated to covered treatment, shall not be eligible for reimbursement.

[7.35.4.14 NMAC - N, xx/xx/2026]

7.35.4.15 RECORD RETENTION AND ACCESS:

A. A claimant shall retain all records supporting a claim for at least seven years after the date of payment or final resolution of an audit, investigation or recovery action, whichever is later.

B. Records shall include clinical documentation, service logs, invoices, receipts, other-payer documentation, authorizations, payment records and communications concerning the claim.

C. Records shall be maintained in a manner that protects confidential patient information and shall be made available to the department or its designee upon request.

D. Failure to produce requested records may result in denial, suspension, recovery of payment, delay, and other action authorized by law.

[7.35.4.15 NMAC - N, xx/xx/2026]

7.35.4.16 AUDITS AND PROGRAM INTEGRITY:

A. The department or its designee may conduct prepayment reviews, post-payment audits, random audits, risk-based audits, and investigations of fund applications, authorizations, claims and payments.

B. An audit may determine whether:

(1) the patient satisfied income, residency and program-enrollment requirements;

(2) the treatment was covered, authorized and actually furnished;

(3) the claimant furnishing or billing for treatment held all required licenses, certifications, or permits;

(4) the treatment was furnished within the provider's scope of practice and certification;

(5) the number and type of services complied with applicable limits;

(6) the claim was accurate and supported by contemporaneous records;

(7) another payer or assistance program made payment;

(8) a duplicate, false, misleading or inflated claim was submitted;

(9) the claimant complied with recordkeeping and patient-confidentiality requirements; and

(10) fund payments were used for authorized purposes.

C. The department may:

(1) request records and written responses;

(2) compare claim information with program, licensing, tax, Medicaid and other payment records to the extent permitted by law;

(3) interview claimants and patients;

(4) conduct remote or on-site reviews during normal business hours; and

(5) refer suspected fraud, false claims, professional misconduct or other violations to the appropriate governmental or licensing authority.

D. A claimant shall provide requested records within 10 business days unless the department authorizes additional time.

[7.35.4.16 NMAC - N, xx/xx/2026]

7.35.4.17 PAYMENT DENIAL AND SUSPENSION:

A. The department may deny an individual claim or suspend a payment to a claimant when:

(1) required information or supporting documentation is missing;

(2) the department identifies a duplicate, inconsistent or potentially inaccurate claim;

(3) the claimant fails to cooperate with an audit or records request;

(4) there is a credible allegation of fraud, material misrepresentation, or misuse of fund money;

(5) the claimant's applicable license, certification, or permit is expired, suspended, restricted, or revoked;

(6) the department determines that continued payment presents a material risk to patients or the fund;

(7) an overpayment has not been repaid to the department or otherwise resolved; or

(8) the department determines that funds are unavailable.

B. Except when immediate action is necessary to protect patients or public funds, the department shall provide electronic written notice before suspending or denying payment. The notice shall be issued via the electronic system designated by the department, and shall state:

(1) the factual and legal basis for the action;

(2) the claims or payments affected;

(3) the effective date;

(4) the documentation or corrective action required; and

(5) the procedure and deadline for requesting review.

C. The department may immediately deny or suspend payment when necessary to prevent payment of a potentially fraudulent or unauthorized claim, or when funding is exhausted or otherwise unavailable.

D. A payment suspension shall remain in effect until the department determines that:

(1) the claim is payable;

(2) the deficiency has been corrected;

(3) the claim should be denied;

(4) an overpayment has been resolved; or

(5) funding becomes available.

E. A suspension based solely on fund availability does not constitute a determination that the claimant or patient violated this rule.

[7.35.4.17 NMAC - N, xx/xx/2026]

7.35.4.18 OVERPAYMENTS AND RECOVERY:

A. A payment is an overpayment when:

(1) the patient or treatment was not eligible for payment;

(2) the claim contained inaccurate or incomplete material information;

(3) another payer was responsible for all or part of the payment;

(4) the payment exceeded the allowable amount;

(5) the department paid the same treatment more than once; or

(6) the claimant cannot produce records sufficient to support payment.

B. The department shall issue a written notice via the department approved electronic system stating the basis and amount of the overpayment.

C. The claimant shall repay the overpayment within 30 calendar days after the notice is issued, unless the department approves a repayment agreement.

D. The department may recover an overpayment by direct repayment, offset against future payments, and any other lawful collection method.

E. Recovery of an overpayment shall not preclude referral for collection or other remedies authorized by law.

[7.35.4.18 NMAC - N, xx/xx/2026]

7.35.4.19 PROGRAM MONITORING:

A. The department shall periodically evaluate whether fund money is being distributed equitably throughout New Mexico.

B. The evaluation may consider:

(1) patient income level;

(2) county and geographic region;

(3) rural, frontier and tribal access;

(4) qualifying condition;

(5) type and amount of assistance requested, approved and paid;

(6) application and claim approval and denial rates;

(7) processing and waiting times;

(8) distance traveled for treatment; and

(9) other identified barriers to access.

C. Information used for program monitoring or public reporting shall be aggregated or de-identified so that individual patients cannot be identified.

D. The department may use the results to improve outreach, allocation methods, application assistance, and access to covered treatment, consistent with available appropriations and applicable law.

[7.35.4.19 NMAC - N, xx/xx/2026]

7.35.4.20 ADMINISTRATIVE REVIEW OF ADVERSE PAYMENT DETERMINATIONS:

A. A patient or claimant may request administrative review of a denial, reduction, suspension, or overpayment determination (adverse payment determination).

B. A request for administrative review shall be submitted in writing via the electronic system designated by the department within 30 calendar days after the date of notice, shall be properly addressed to the medical psilocybin program, and shall include:

(1) the requestor's name and contact information;

(2) the claim or application number;

(3) the determination being challenged;

(4) a concise statement explaining why the adverse payment determination should be changed; and

(5) supporting documentation.

C. The administrative review shall consist of a review of relevant documents; the administrative review is not an adjudicatory proceeding.

D. The program manager or another person designated by the director shall conduct an initial review of the request for administrative review, shall review relevant documentation, and may request additional information or further clarification from the patient or claimant. In the event that the program manager or designated person identifies an additional basis for an adverse payment determination or proposes to take an adverse payment determination that was not previously identified, the patient or claimant shall be informed and shall be allowed to submit additional information or documentation, as appropriate, and within a stated deadline.

E. The program manager or designated person shall recommend that the director affirm, modify, or deny the adverse payment determination. Within 10 business days of receipt of the request for administrative review or the date of last submission of any additional information or documentation from the patient or claimant (whichever is later), the program manager or designated person shall provide to the director a written recommended decision, which shall include a brief statement of the basis.

F. Within 10 business days of receipt of the recommended decision, the director or the director's designee shall issue a final decision regarding the request for administrative review, which shall include a brief statement of the basis. The final decision of the director or the director's designee may affirm, deny, or modify the adverse payment determination. The final decision of the director or the director's designee shall be issued to the

patient or claimant via the electronic system designated by the department and shall constitute the final decision of the department.

G. A request for administrative review shall not stay a payment denial, suspension, or recovery action.

H. An adverse payment determination that is based solely on the lack or unavailability of funding shall not be subject to administrative review.

[7.35.4.20 NMAC - N, xx/xx/2026]

This is an amendment to 7.35.2 NMAC, Section 7, effective xx/xx, 2026.

7.35.2.7 DEFINITIONS:

A. Definitions beginning with "A":

(1) "Actual control" means the ability to:

(a) control the policies, management, or personnel of a permittee;

(b) control strategic priorities, capital allocations, acquisitions, and divestments of a permittee; or

(c) control a majority of voting rights of a permittee.

(2) "Administrative review committee" means an intra-department committee that reviews qualified patient application denials in accordance with department rules. The administrative review committee shall consist of the chief medical officer of the department (or that person's designee); a deputy secretary of the department (or that person's designee), and the chief nursing officer of the department (or that person's designee).

[~~(2)~~] (3) "Administration session" means the session in which medical psilocybin is [~~administered~~] consumed by a qualified patient.

[~~(3)~~] (4) "Adulterate" means to use or incorporate a substance that contaminates a psilocybin product and that creates a risk to public health.

(5) "Adverse health event" means a negative or detrimental medical, physical, behavioral, or psychological reaction associated with medical psilocybin services, whether expected or unexpected, that occurs during or after an administration session and that may or may not require medical or therapeutic intervention.

(6) "Allowable amount" means the maximum amount the department may reimburse for covered medical services, products, and expenses under this rule.

[~~(4)~~] (7) "Analytes" means a substance whose chemical constituents are being identified and measured.

[~~(5)~~] **(8) "Appellant"** means a person who requests a hearing to contest an immediate or proposed disciplinary action.

[~~(6)~~] **(9) "Approved location"** means a location approved by the department for psilocybin administration sessions.

B. Definitions beginning with "B": "Board" means the medical psilocybin advisory board.

C. Definitions beginning with "C":

(1) "Capsule" means a small soluble pill, tablet or container that contains homogenized psilocybin material.

(2) "Certificant" means a certifying clinician, practitioner, facilitator, healing center or other approved location, or educational program that is certified by the department to provide medical psilocybin services to qualified patients.

[~~(2)~~] **(3) "Certificate of analysis" or "COA"** means a document issued by a permitted psilocybin testing laboratory that reports the results of all analyses required by the department or additional testing requested by a producer or manufacturer.

[~~(3)~~] **(4) "Certification"** means an approval issued by the department to a clinician, [~~or~~] a practitioner, a facilitator, a healing center or other approved location, or an educational program to [~~provide medical psilocybin services to qualified patients~~] participate in the medical psilocybin program.

(5) "Certifying clinician" means a clinician who holds a state of New Mexico controlled substances number, who is certified by the department to diagnose or confirm a previous diagnosis of a qualifying condition and to evaluate the medical appropriateness of a patient enrolling in the New Mexico psilocybin program.

(6) "Claim" means an electronic request for payment from the fund, including all information and supporting documentation required by the department.

(7) "Claimant" means an authorized certifying clinician, practitioner, healing center, producer, or other vendor who submits a claim for payment from the fund.

[~~(4)~~] (8) "Clinician" means an approved health care provider licensed in New Mexico who holds a certification from the department to provide medical services to qualified patients.

[~~(5)~~] (9) "Compliance notification" means a notification of noncompliance with a regulatory requirement that is issued to a psilocybin producer or psilocybin testing laboratory.

[~~(6)~~] (10) "Compound" means to prepare psilocybin to tailor dosage, and includes grinding and powdering psilocybin mushrooms, as well as the creation of psilocybin capsules.

[~~(7)~~] (11) "Convert" means converting psilocybin mushrooms into a homogenized lot.

(12) **"Covered treatment"** means a service, psilocybin product, or travel expense eligible for payment under 7.35.4 NMAC.

[~~(8)~~] (13) "Cultivation" means the growing, harvesting, drying, and handling of psilocybin-producing mushrooms.

[~~(9)~~] (14) "Cultivation batch" or **"batch"** means a quantity of unharvested spores, fruiting body, or mycelium that is grown together under the same conditions, that may contain fungi that originates from diverse spores or mycelial tissue.

D. Definitions beginning with "D":

(1) "Department" means the department of health.

(2) "Director" means the director of the medical psilocybin program.

E. Definitions beginning with "E":

(1) "Educational program" means a person who is certified by the department to provide educational services for certifying clinicians, practitioners, and facilitators in accordance with this rule.

(2) "Electronic system" means a department-approved online system that is used to record and report data, submit applications, and communicate with the department.

(3) "Enrollment" means enrollment as a qualified patient for participation in the New Mexico medical psilocybin program.

(4) "Expiration date" means a date determined by a producer after which an associated psilocybin product will not retain optimal quality.

F. Definitions beginning with "F":

(1) "Facilitator" or **"guide"** means an individual who has completed training and education approved by the department to be able to work with patients and practitioners during medical psilocybin services and who has been certified by the department.

[~~(1)~~] (2) "Facility" means any building, space, or grounds licensed for the cultivation, harvesting, drying, storage, or preparation of psilocybin-producing fungi or psilocybin products.

(3) "Federal poverty guidelines" means the poverty guidelines published annually by the United States department of health and human services.

(4) "Fund" means the medical psilocybin treatment equity fund created by Section 26-2D-11 NMSA 1978.

[~~(2)~~] (5) "Flush" means the fruiting body of psilocybin mushrooms harvested at the same time from a growing medium.

[~~(3)~~] (6) "Fruiting bodies" means the spore producing organs of the fungi.

[~~(4)~~] (7) "Fungi" is any member of the group of eukaryotic organisms that includes microorganisms such as yeasts and molds, as well as the more familiar mushrooms.

G. Definitions beginning with "G":

(1) "Genuine ownership" means an ownership interest in [~~an applicant or~~] a permittee or permit applicant that is evidenced by record ownership in which the owner, regardless of the amount of capital or assets that the owner contributes to [~~the applicant or~~] permittee or permit applicant, enjoys the customary incidents of ownership and shares in the profits and losses of the permittee proportionate to the percentage of the owner's interest in the permit.

(2) "Growth medium" or **"substrate"** means the underlying base layer, surface, or nutrient rich substance where fungal growth occurs.

[~~(3) "Guide" an individual who has completed training and education approved by the department to be able to assist practitioners during the administration sessions and who has been registered with the department.~~]

H. Definitions beginning with "H":

(1) "Harvest" means to remove, collect, or gather, fruiting bodies of mushrooms containing psilocybin.

(2) "Harvest lot" means the fruiting bodies of mushrooms cultivated and harvested at the permitted location.

(3) "Healing center" means a person who has been issued a certification by the department to administer a site at which medical psilocybin administration sessions are conducted, to possess medical psilocybin for that purpose, and to sell or otherwise distribute psilocybin to qualified patients for that purpose.

[~~(3)~~] (4) "Homogenization date" means the date a harvest lot is homogenized.

[~~(4)~~] (5) "Homogenized" means dried fruiting bodies that have been mixed by powdering or other techniques which uniformly distribute psilocybin throughout the product.

[~~(5)~~] (6) "Homogenized lot" means a quantity of psilocybin mushrooms identified by a producer that is cultivated and dried under the same conditions, and harvested within a specified time period at the same location within permitted premises.

(7) "Household" means the individuals included for federal taxation purposes in the qualified patient's household for the applicable tax year.

I. Definitions beginning with "I":

(1) "Information notification" means a notification providing information regarding relevant updates and alerts that is issued to a psilocybin producer or psilocybin testing laboratory.

(2) "Inoculate" means the process of introducing psilocybin spores or mycelium into growth medium.

(3) "Input" means material utilized in growing medium for growing psilocybin mushrooms, including but not limited to soil, grain, woodchips, water, nutrients, and other materials.

(4) "Integration session" means a therapeutic encounter occurring between a certified practitioner and a patient after the administration of medical psilocybin, in which the practitioner provides ongoing care to the patient.

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L": [RESERVED]

M. Definitions beginning with "M":

(1) "Manufacture" or **"process"** means to harvest, dry, compound, convert, or package into pills, capsules, or sachets of homogenized powder, and label mushrooms and products containing psilocybin.

(2) "Medical psilocybin service" means any medical or therapeutic service related the medical use of psilocybin pursuant to the Medical Psilocybin Act.

[~~(2)~~] (3) "Medical services" means services provided to a patient in an approved setting before, during and after the ingestion of psilocybin and includes a preparation session, an administration session and an integration session.

(4) "Program manager" means the manager of the medical psilocybin program.

[~~(3)~~] (5) "Mycelium" means the fungal threads or hyphae of psilocybin containing mushrooms.

[~~(4)~~] (6) "Mushroom" is the fleshy, spore-bearing fruiting body of a fungus.

N. Definitions beginning with "N": [~~[RESERVED]~~] "New Mexico module" means requirements for educational study that are created by the department or its designee, that are required by applicable department rule to be completed prior to applying to be a certifying clinician, practitioner, or facilitator.

O. Definitions beginning with "O": [~~[RESERVED]~~]

(1) "Other approved location" means a site at which medical psilocybin administration sessions are to be conducted, that is not a healing center location, that is certified on a temporary basis by the department for this purpose, and whose certification is applied for by a practitioner, facilitator, or healing center.

(2) "Other payer" means a public or private insurer, Medicaid program, employee benefit plan, governmental program, charitable program, or other legally responsible source of payment for a covered treatment.

P. Definitions beginning with "P": [RESERVED]

(1) "Package" means to enclose, wrap, or seal psilocybin products.

(2) "Permit" means the authorization issued by the department to a person to operate as a psilocybin producer or psilocybin testing laboratory under this part.

(3) "Permit-applicant" means a person who has applied for a permit to operate as a psilocybin producer or psilocybin testing laboratory.

(4) "Permittee" means a psilocybin producer or psilocybin testing laboratory that holds a permit issued by the department.

(5) "Person" means a natural person, corporation, partnership, limited liability company, association, and any other business or organization that is capable of entering into contracts, owning property, and suing or being sued.

(6) "Potency" means the level of psilocybin and analytes in a sample of a batch, lot, or product which is measured and expressed in metric units.

(7) "Practicum" means the supervised training of a student who is seeking certification as a practitioner or facilitator and requires participation in preparatory, administration, and integration sessions.

[~~(7)~~] (8) "Practitioner" means [~~an individual who is a licensed healthcare professional~~] a clinician who is certified by the department to provide medical psilocybin integrative therapy, supervise [~~guides~~] facilitators, and who has completed department required trainings.

(8) "Preparation session" means a therapeutic encounter between a certified practitioner and a patient that occurs prior to an administration session.

(9) "Producer" means a person who has a permit from the department to grow and harvest or prepare psilocybin from psilocybin-producing mushrooms, including to compound, convert, process or manufacture psilocybin products directly or indirectly from psilocybin mushrooms and to package or repackage or label or relabel the products.

[~~(8)~~] (10) "Product lot" means the same type of product that has been created from a homogenized lot.

[~~(9)~~] (11) "Program" means the medical use of psilocybin program.

[~~(10)~~] (12) "Psilocybin" means the naturally occurring psychedelic compound 4-phosphoryloxy-N, N-dimethyltryptamine, also known as 4-PO-DMT, and its pharmacologically active metabolite psilocin, 4-hydroxy-N, N-dimethyltryptamine, found in certain mushrooms, but does not include synthetic or synthetic analogs of psilocybin.

[~~(11)~~] (13) "Psilocybin material" means psilocybin mushrooms, mycelium, and derived material that naturally contain psilocybin.

[~~(12)~~] (14) "Psilocybin mushroom" means a fungus that naturally contains psilocybin.

[~~(13)~~] (15) "Psilocybin producer" or **"producer"** means a person who has a permit from the department to grow and harvest or prepare psilocybin from psilocybin-producing mushrooms, including to compound, convert, process or manufacture psilocybin products directly or indirectly from psilocybin mushrooms and to package or repackage or label or relabel the products.

[~~(14)~~] (16) "Psilocybin product" means psilocybin material that is intended for sale or distribution to a qualified patient.

[~~(15)~~] (17) "Psilocybin testing laboratory" or **"laboratory"** means a facility permitted by the department to test psilocybin products for potency and contaminants in accordance with this rule.

[~~(16)~~] (18) "Psilocybin waste" means:

(a) Partially consumed products;

(b) Byproducts of cultivation, harvesting, processing, or other production of products;

(c) Products disposed or to be disposed by a producer or laboratory; and

(d) Products designated for disposal by the department due to contamination, expiration, or which do not follow the requirements for production and administration.

Q. Definitions beginning with "Q":

(1) "Qualified patient" or **"patient"** means a patient whose certifying clinician has judged the patient to be a medically appropriate candidate for the use of medical psilocybin based on being diagnosed with a qualifying condition.

(2) "Qualifying condition" includes:

(a) major treatment-resistant depression;

(b) posttraumatic stress disorder;

(c) substance use disorders;

(d) end-of-life care; and

(e) other conditions approved by the department;

R. Definitions beginning with "R":

(1) "Recall" means to remove a medical psilocybin product from the medical psilocybin market by contacting persons to whom the product was sold or otherwise distributed and having the product returned to the producer for destruction.

(2) "Registrant of another approved location" means a practitioner, facilitator, or healing center who applies for and receives certification for an "other approved location".

S. Definitions beginning with "S":

(1) [~~"Satchet"~~] "Sachet" means a small, sealed package or pouch of homogenized psilocybin mushrooms.

(2) "Secretary" means the secretary of health.

(3) "Sex offender" means a person who is convicted of a sex offense pursuant to state, federal, tribal, military, or other law of New Mexico, another state, commonwealth, or territory, or pursuant to the laws of a jurisdiction outside the United States.

(4) "Sex offense" means any offense that is deemed a sex offense for purposes of the New Mexico Sex Offender Registration and Notification Act, NMSA 1978, Section 29-11A-3.

(5) "SHARE" means the statewide human resources, accounting, and management reporting system, or a successor state financial system designated by the department.

T. Definitions beginning with "T":

(1) "Testing sample" means the unit of psilocybin mushrooms or products being tested.

(2) "Traceability system" means the department-approved system that is used to track psilocybin mushrooms and products from inoculation to end use.

U. Definitions beginning with "U": "Unique identification number" means the most recent unique number assigned by the traceability system for a psilocybin product that may include cultivation batches, harvest lots, homogenized lots, product lots, and testing samples.

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": [RESERVED]

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[7.35.2.7 NMAC - N, 6/23/2026; A, xx/xx/2026]

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health (Department) will hold a public hearing on the proposed adoption of a new rule, 7.35.4 NMAC, and the proposed amendment of existing rule section 7.35.2.7 NMAC, concerning the New Mexico Medical Psilocybin Program ("Program"). The hearing will be held on Friday, November 20, 2026 at 9:00 a.m. in the Harold Runnels Building auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico. The hearing will also be broadcast via a live web-based video conference, and via telephone. Members of the public who wish to submit public comment regarding the proposed rule will be able to do so in person at the hearing, via video conference, or via telephone during the hearing, and by submitting written comment.

The proposed rule 7.35.4 NMAC would adopt standards for the Medical Psilocybin Treatment Equity Fund. The rule includes, but is not limited to, the following:

- Eligibility standards and submittal requirements for qualified New Mexico patients
- Covered medical services
- Claim and invoice submittal requirements
- Reimbursement standards
- Record retention and audit requirements
- Permitted travel expenses
- Program monitoring
- Grounds for denial, payment holds, and suspensions
- Recovery of overpayments
- Process for review of adverse determinations

The proposed amendment of 7.35.2.7 NMAC would adopt revisions to the Definitions of that rule section, which would be incorporated by reference at 7.35.4.7 NMAC.

The purpose of the proposed rule and rule amendment is to implement the Medical Psilocybin Act, sections 26-2D-1 through -11, NMSA 1978.

The legal authority authorizing the adoption of the rule and rule amendment by the Department is the Department of Health Act, subsection E of section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions"; and the Medical Psilocybin Act, at section 26-2D-11(A), NMSA 1978, which requires the Department to administer the Medical Psilocybin Treatment Equity Fund, and at section 26-2D-7(A)(7), NMSA 1978, which requires the Department to establish "other requirements, restrictions and limitations promulgated by the department to ensure an efficacious program."

A free copy of the full text of the proposed rule and proposed rule amendment can be obtained online from the New Mexico Department of Health's website at http://nmhealth.org/about/asd/cmo/rules/or by contacting the Department using the contact information below.

The public hearing will be conducted to receive public comment on the proposed rule and proposed rule amendment. Any interested member of the public may attend the hearing and may submit data, views, or arguments on the proposed rule either orally or in writing during the hearing.

The hearing will be held on November 20, 2026 at the Harold Runnels Building auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

To access the hearing via the Internet: please go to https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting and then enter the following meeting i.d. code and passcode where indicated on the screen: meeting i.d. code 237 178 592 421 542 and passcode 43sT9gU2 and then click the "Join a meeting" button.
To access the hearing by telephone: please call 1-505-312-4308 and enter phone conference i.d. 589 114 62#

Individuals who wish to receive an e-mailed calendar invitation for the hearing may register online at https://events.gcc.teams.microsoft.com/event/583e4227-4971-47f7-b0bc-0fb1241afdc0@04aa6bf4-d436-426f-bfa4-04b7a70e60ff

All comments will be recorded.

Written public comment regarding the proposed rule can be submitted either by e-mail to Jacob Clark at jacob.clark@doh.nm.gov, or by U.S. postal mail to the following address:

Jacob Clark
NMDOH OGC
P.O. Box 26110
1190 St. Francis Dr., Suite N-4095
Santa Fe, NM 87502-6110

Written comments must be received by the close of the public rule hearing on November 20, 2026. All written comments will be published on the agency website at https://www.nmhealth.org/about/asd/cmo/rules/ within 3 days of receipt, and will be available at the New Mexico Department of Health for public inspection.

If you are an individual with a disability and need special assistance or accommodation to attend or participate in the hearing, please contact Jacob Clark by telephone at (505) 827-2997. The Department requests at least ten (10) days' advance notice to provide special accommodation.

Affidavit of Publication

STATE OF NEW MEXICO } SS
COUNTY OF BERNALILLO }

Ad Cost:	$219.51
Ad Number:	475240
Account Number:	1031196
Classification:	GOVERNMENT LEGALS

I, Michele Aster, the undersigned, Legal Representative of the Albuquerque Journal, on oath, state that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, chapter 167, Session Laws of 1937, and payment of fees has been made of assessed and a copy of which is hereto attached, was published in said publication in the daily edition, 1 time on the following date:

October 20, 2026

That said newspaper was regularly issued and circulated on those dates.
SIGNED:

Legal Representative

Subscribed to and sworn to me this 20th day of October 2026.

David Lindsey Montoya
Notary Public
County Bernalillo
ID#: 1140229
My commission expires: 04-26-2027

STATE OF NEW MEXICO
NOTARY PUBLIC
DAVID LINDSEY MONTOYA
COMMISSION NUMBER 1140229
EXPIRATION DATE 04-26-2027

NM DEPT HEALTH GENERAL COUNCIL
NM DEPT OF HEALTH GENERAL COUNCIL
1190 ST FRANCIS N4095
SANTA FE, NM 87502

NMHealth

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health (Department) will hold a public hearing on the proposed adoption of a new rule, 7.35.4 NMAC, and the proposed amendment of existing rule section 7.35.2.7 NMAC, concerning the New Mexico Medical Psilocybin Program ("Program"). The hearing will be held on Friday, November 20, 2026 at 9:00 a.m. in the Harold Runnels Building auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico. The hearing will also be broadcast via a live web-based video conference, and via telephone. Members of the public who wish to submit public comment regarding the proposed rule will be able to do so in person at the hearing, via video conference, or via telephone during the hearing, and by submitting written comment.

The proposed rule 7.35.4 NMAC would adopt standards for the Medical Psilocybin Treatment Equity Fund. The rule includes, but is not limited to, the following:

·Eligibility standards and submittal requirements for qualified New Mexico patients
·Covered medical services
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·Program monitoring
·Grounds for denial, payment holds, and suspensions
·Recovery of overpayments
· Process for review of adverse determinations

The proposed amendment of 7.35.2.7 NMAC would adopt revisions to the Definitions of that rule section, which would be incorporated by reference at 7.35.4.7 NMAC. The purpose of the proposed rule and rule amendment is to implement the Medical Psilocybin Act, sections 26-2D-1 through -11, NMSA 1978.

The legal authority authorizing the adoption of the rule and rule amendment by the Department is the Department of Health Act, subsection E of section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions"; and the Medical Psilocybin Act, at section 26-2D-11(A), NMSA 1978, which requires the Department to administer the Medical Psilocybin Treatment Equity Fund, and at section 26-2D-7(A)(7), NMSA 1978, which requires the Department to establish "other requirements, restrictions and limitations promulgated by the department to ensure an efficacious program."

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Individuals who wish to receive an e-mailed calendar invitation for the hearing may register online at https://events.gcc.teams.microsoft.com/event/583e4227-4971-47f7-b0bc-0fb1241afdc0@04aa6bf4-d436--426f-bfa4- 04b7a70e60ff

All comments will be recorded.

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Santa Fe, NM 87502-6110

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If you are an individual with a disability and need special assistance or accommodation to attend or participate in the hearing, please contact Jacob Clark by telephone at (505) 827-2997. The Department requests at least ten (10) days' advance notice to provide special accommodation.

Journal: October 20, 2026

Exhibit 5

INVOICE

NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, NM 87507

darlene.martinez@srca.nm.gov
+1 (505) 476-7913
www.nmcpr.state.nm.us

Bill to
Department of Health - General Counsel Office
P.O. Box 26110
Santa Fe, NM 87502-6110

Ship to
Department of Health - General Counsel Office
P.O. Box 26110
Santa Fe, NM 87502-6110

Invoice details
Invoice no.: SRCA 9067
Terms: Due on receipt
Invoice date: 10/15/2026
Due date: 10/15/2026

Volume: XXXVII
Issue: 19 (pub. date: 10/6/2026)
P.O. number: 66500-0000212543

#	Product or service	Description	Qty	Rate	Amount
1.	**NM Register - 431902**	New Rule, 7.30.16 NMAC - Doula Credentialing for Medicaid Reimbursement, effective: 10/6/2026	320	$3.00	$960.00

Total **$960.00**

Note to customer

Thank you for your business!

NEW MEXICO
State Records Center and Archives
COMMISSION OF PUBLIC RECORDS
Your Access to Public Information

Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # SRCA - 9067 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXVII, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # SRCA - 9067, and that Invoice # SRCA - 9067 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

Affiant: _____
Matthew Ortiz

Subscribed, sworn and acknowledged before me this 16th day of ~~September~~ October 2026.

Notary Public: _____
My Commission Expires: 1/22/2028

PAMELA ANNE LUJAN Y VIGIL
Notary Public
State of New Mexico
Comm. # 2001927
My Comm. Exp. Jan 22, 2028

NMHealth
OFFICE OF GENERAL COUNSEL

Michelle Lujan Grisham
Governor

Gina DeBlassie
Cabinet Secretary

New Mexico Department of Health

Via Electronic Mail

October 7, 2026

Craig Erickson
Utton & Kery, P.A.
PO Box 2386
Santa Fe, NM 87504
E-mail: craig@uttonkery.com

Re: Appointment Letter, Public Rulemaking Hearing on Proposed Adoption of a New Rule 7.35.4 NMAC, the New Mexico Psilocybin Treatment Equity Fund

Dear Mr. Erickson:

Pursuant to NMSA 1978, § 9-7-6(E), I hereby appoint you to serve as the hearing officer to preside at the Department of Health's public hearing November 20th, 2026, and to submit a written recommendation regarding the proposed rule adoption. This rulemaking hearing is scheduled for 9:00 a.m. and will be a hybrid rule hearing, conducted in-person at the Harold Runnels Building auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico 87505, and via the Microsoft Teams web conference platform and via telephone. Attached is a copy of the Notice of Public Hearing.

The hearing will be conducted to receive public comment regarding the adoption of a new rule, New Rule 7.35.4 NMAC, "the New Mexico Psilocybin Treatment Equity Fund." An exhibit binder will be provided to you prior to the date of the hearing.

Thank you for accepting this appointment.

Sincerely,

Gina DeBlassie
NMDOH Cabinet Secretary

Date 10/13/2026

cc: Christopher D. Woodward, Deputy General Counsel

Affidavit of Notice to the Public

I, Allyson Beasley, the undersigned, on oath, swear and affirm that the Notice of the Public Hearing for the proposed adoption of rule 7.35.4 NMAC (Medical Psilocybin Treatment Equity Fund), was provided to the public as identified below:

1. On October 20th, 2026, I verified that the Notice of Public Hearing was electronically posted on the New Mexico Department of Health agency website at https://www.nmhealth.org/about/asd/cmo/rules/, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2.

2. On October 20th, 2026, I verified that the Notice of Public Hearing was posted on the New Mexico Sunshine Portal website, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2.

3. On October 20th, 2026, I emailed the Notice of Public Hearing to persons who have made a written request for notice from the agency of announcements addressing the subject of rulemakings and who have provided the agency an electronic mail address, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2. The list of persons who requested notice includes the following persons:

Tim Gardner	tgardner@drnm.org
Lucy Galaviz	lgalaviz@drnm.org
Rachel S. Gudgel	rachel.gudgel@nmlegis.gov

4. No persons have provided a postal address to request written notice by postal mail.

5. On October 20th, 2026, I emailed the Notice of Public hearing to the New Mexico Legislative Council Service, at lcs@nmlegis.gov, in accordance with the State Rules Act at NMSA 1978, § 14-4-5.2.

6. On October 20th, 2026, I emailed the Notice of Public Hearing to Kate Graham of the New Mexico Small Business Regulatory Advisory Commission, the identified contact person for the receipt of proposed rule changes, at Kate.Graham@edd.nm.gov, pursuant to the Small Business Regulatory Relief Act at NMSA 1978, § 14-4A-4.

7. On October 20th, 2026, I ensured that the Notice of Public Hearing was posted publicly on the exterior doors at the Harold Runnels Building, Department of Health, 1190 S. St. Francis Drive, Santa Fe, NM 87505.

FURTHER AFFIANT SAYETH NAUGHT.

Allyson Beasley, Affiant

STATE OF NEW MEXICO }
COUNTY OF SANTA FE }

SWORN TO and SUBSCRIBED before me on the 21st day of October, 2026 by Allyson Beasley.

Notarial Officer

State of New Mexico
Notarial Officer
Melinda L. Wolinsky
State Bar #5903

My Commission Expires:

N/A

Exhibit 8

Public Comments on 7.35.4 NMAC Medical Psilocybin Treatment Equity Fund

Public comment on proposed 7.35.4 NMAC and amendments to 7.35.2.7 NMAC

To: New Mexico Department of Health, Office of General Counsel, attention Jacob Clark

Re: Proposed 7.35.4 NMAC, Medical Psilocybin Treatment Equity Fund, and proposed amendments to 7.35.2.7 NMAC (hearing November 20, 2026)

To the New Mexico Department of Health:

I am a licensed professional clinical counselor and clinical supervisor in New Mexico, and I live in Taos County. I also work as a clinical facilitator in Colorado's regulated natural medicine program. I support the Treatment Equity Fund and the Department's work on this rule.

I am writing about one issue: who may submit applications and claims to the fund. I ask that the rule allow a claimant to submit applications and claims through an authorized billing agent, while payment continues to go only to the claimant through the claimant's own SHARE vendor account.

Disclosure of interest: I own Satura Practice, a business that provides billing and credentialing services to clinicians in rural New Mexico. Services like mine would be affected by this change. I describe safeguards below so the Department can weigh the request on its merits.

The current language

- Proposed 7.35.2.7(C)(7): "Claimant" means an authorized certifying clinician, practitioner, healing center, producer, or other vendor who submits a claim for payment from the fund.
- 7.35.4.9(A): "An applicant for funding from the treatment equity fund shall submit an application via the electronic system designated by the department." The term "applicant" is not defined in 7.35.4 NMAC or in the proposed 7.35.2.7 NMAC.
- 7.35.4.10(A): "Before submitting a reimbursement request, the claimant shall make a reasonable and documented effort to obtain payment from all other payers who may be legally responsible for the covered treatment."
- 7.35.4.12(A): "Certifying clinicians, practitioners, producers, healing centers and other authorized claimants shall submit claims through the electronic system designated by the department."

- 7.35.4.13(B): "Payment shall be made through SHARE or a successor system designated by the department."

Read together, these sections tie the act of submitting a claim to the provider who is paid. They do not say whether anyone may submit on a provider's behalf, and they do not say who the applicant is.

Why this matters

1. Small practices already bill this way. Solo and small-group clinicians often submit Medicaid and commercial claims through a billing service or clearinghouse, and the payer pays the provider. Under the proposed rule, the fund would be the one payer in an episode of care where this is not allowed.
2. The fund is the payer of last resort. Section 7.35.4.10 requires a documented effort with every other payer, along with a denial, explanation of benefits, or remittance advice, before a fund claim. The person who submitted the Medicaid and insurance claims holds that documentation. When that person is a billing agent, the agent is the one best placed to assemble the record the Department needs and attach it to the fund claim.
3. Rural access. The clinicians most likely to serve fund patients in rural and frontier counties run small practices with no billing staff. If every clinician must prepare fund applications and claims personally, fewer will accept fund patients. That works against the equity goals in 7.35.4.6 and 7.35.4.19 NMAC.
4. Clarity for patients. Defining "applicant" tells a patient who starts the process and who to call.

Proposed language

1. Amend 7.35.2.7(C)(7) to read: "Claimant" means an authorized certifying clinician, practitioner, healing center, producer, or other vendor who submits a claim for payment from the fund, either directly or through an authorized billing agent. Payment of a claim shall be made only to the claimant.
2. Add a definition to Subsection A of 7.35.2.7 NMAC, renumbering as needed: "Authorized billing agent" means a person or entity that a claimant has authorized in writing, through a form or process designated by the department, to prepare and submit applications and claims to the fund on the claimant's behalf. An authorized billing agent is not a claimant and shall not receive payment from the fund.

3. Amend 7.35.4.9(A) to read: An applicant for funding from the treatment equity fund shall submit an application via the electronic system designated by the department. An applicant may be the qualified patient, the patient's legal guardian or authorized representative, a claimant who will furnish covered treatment to the patient, or that claimant's authorized billing agent. Every application shall include the patient's signed authorization under Paragraph (5) of Subsection B of this section, regardless of who submits it.
4. Amend 7.35.4.12(A) by adding at the end: A claimant may submit claims directly or through an authorized billing agent.
5. Add a new Paragraph (12) to 7.35.4.12(B), and renumber the current Paragraph (12) as (13): (12) when an authorized billing agent submits the claim, the agent's name and contact information and the department's record of the claimant's authorization.
6. Add to 7.35.4.12(B)(11): When an authorized billing agent submits a claim, the claimant shall attest that the treatment was furnished as reported, and the agent shall attest that the claim accurately reflects the records the claimant provided and the agent's documented efforts with other payers.
7. Amend 7.35.4.13(B) to read: Payment shall be made through SHARE or a successor system designated by the department, and only to the claimant's SHARE vendor account. The department shall not issue payment to an authorized billing agent.
8. Add a new Subsection E to 7.35.4.15 NMAC: An authorized billing agent shall retain records of the applications and claims it submitted for the period in Subsection A of this section, shall make them available to the department on request, and is subject to review and audit under 7.35.4.16 NMAC.
9. Add a new Subsection G to 7.35.4.12 NMAC: A claimant may revoke an authorization at any time through the electronic system designated by the department. An authorized billing agent's compensation shall not be based on a percentage of payments from the fund.

These changes keep every payment going to the provider of record, keep the provider responsible for the care reported, and make the person who prepares the claim accountable to the Department for its accuracy. They also give rural clinicians the same billing support for fund claims that they use for Medicaid and insurance claims.

Thank you for considering this comment.

Anne L. Metz, PhD, LPCC

Arroyo Seco, New Mexico

From: Ian Lineberry
To: Clark, Jacob, DOH
Subject: [EXTERNAL] Regarding the NM Psylocybin program
Date: Friday, October 23, 2026 3:14:42 PM

You don't often get email from ianlineberry82@gmail.com. Learn why this is important

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Jacob,

As others have elequently stated, over regulations will destroy the medical psylocybin program here in NM before it ever takes flight...

I support safe medicinal use of psylocybin but for this to work the vampires have to lay off the fees... Allow this market to establish itself, allow people to be healed, and watch the ripple effect benefit our state tremendously.

Thank you.

Joint Public Comment on 7.35.4 NMAC
Submitted by Healing Advocacy and Rudick Law Group

The draft rule reflects a clear commitment to patient access, and we commend the Department for making access the organizing principle of how the fund will be administered. Our recommendations aim to carry that commitment through to the application and claims process.

Summary of recommendations

1. **Proof of eligibility (7.35.4.9):** let a current Medicaid, SNAP, TANF, or WIC award letter establish both New Mexico residency and income eligibility.
2. **Other-payer documentation (7.35.4.10):** accept a signed patient attestation that the patient is uninsured or ineligible for insurance, and apply a reasonable-knowledge standard to the other-payer attestation.
3. **Audit scope (7.35.4.16):** limit patient interviews to facts needed to verify eligibility and billed services, and clarify that on-site reviews concern records, not treatment sessions.
4. **Clarity for applicants:** define who may apply, who signs the authorization and attestation, and what "enrolled" and "claimant" mean.

1. Let one benefits award letter establish both residency and income (7.35.4.9)

Recommendation: Accept a current award letter showing enrollment in New Mexico Medicaid, SNAP, TANF, or WIC as proof of both New Mexico residency under 7.35.4.9(B)(3) and income eligibility under 7.35.4.9(C).

Each of these state-administered programs requires New Mexico residency for enrollment. A current award letter from the New Mexico Health Care Authority therefore already shows that a state agency has verified the applicant lives in New Mexico. As drafted, however, the same letter satisfies only the income requirement, and the applicant must locate a second document to prove residency.

For the population this fund will serve, the difference between one document and two is significant. Patients at or below 200 percent of the federal poverty guidelines are more likely to lack a current state ID, to move frequently, or to have utility accounts in another household member's name. Every additional document is another point where an otherwise eligible application can stall.

Suggested language (new subparagraph in 7.35.4.9(B)(3)):

> (d) a current eligibility verification, approval, certification, or award letter from the administering governmental entity that demonstrates current enrollment in New Mexico Medicaid, the Supplemental Nutrition Assistance Program (SNAP), the

> Temporary Assistance for Needy Families (TANF) program, or the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). A letter submitted under this subparagraph shall also satisfy the proof of income eligibility requirement in Subsection C of this section.

We have intentionally left SSI out of the residency list. SSI is federally administered and does not itself verify state residency, though it remains appropriate as proof of income under Subsection C. With a fourth option added, the lead-in to Paragraph (3) should read "one of the following" rather than "either."

2. Accept a patient attestation of uninsured status (7.35.4.10)

Recommendation: Add a signed patient attestation that the patient is not eligible for, or does not otherwise have, health insurance to the forms of proof accepted under 7.35.4.10(B).

The draft requires proof of denial or ineligibility from another payer. For a patient who has never been eligible for coverage, no such document exists: people do not apply for coverage they know they cannot receive. This will arise often for New Mexico residents who are not U.S. citizens. Many are ineligible for Medicaid but otherwise meet every requirement of the fund.

Requiring these patients to produce a coverage denial, or to document why they are ineligible, would either exclude them or effectively require them to disclose immigration status. The fund has no need for that information, and asking for it would deter eligible patients from applying.

An attestation keeps the fund's payer-of-last-resort design intact. Claimants must still disclose all other payments (7.35.4.10(C)), patients attest to the accuracy of their applications (7.35.4.9(B)(6)), and the Department retains its audit and recovery authority (7.35.4.16, 7.35.4.18).

Suggested language (insert as new Paragraph (5) of 7.35.4.10(B) and renumber the current Paragraph (5) as (6)):

> (5) a signed attestation by the patient that the patient is not eligible for, or does not otherwise have, health insurance or other coverage for the service or product; or

Related: a reasonable-knowledge standard for the other-payer attestation. Subsection A requires efforts to obtain payment from "all other payers who may be legally responsible," and Subsection B requires an attestation covering "legally liable and potentially liable third parties" and "other sources of funding." These phrases ask the claimant, often a provider or patient without legal training, to reach a legal conclusion about every potential payer. In a system with limited funds, that uncertainty could lead to denial of otherwise valid claims. We recommend two changes:

- Qualify the attestation in Subsection B so that it extends to third parties the claimant knows of, or reasonably should know of, after reasonable inquiry.
- Publish guidance identifying the payers and funding sources the Department expects claimants to pursue. This would also give practical meaning to "other sources of funding."

3. Limit audit interviews and on-site reviews to what eligibility and payment require (7.35.4.16)

Recommendation: Limit the scope of patient interviews under 7.35.4.16(C)(3) to facts relevant to fund eligibility and the services billed, and clarify that on-site reviews under 7.35.4.16(C)(4) concern records rather than active treatment.

We understand the Department intends patient interviews only to verify eligibility and confirm that billed services were furnished. The rule does not yet say so. As drafted, Paragraph (3) would permit questions about a patient's medical or behavioral health condition, treatment history, or experience during a psilocybin session. None of that is needed to audit a payment, and all of it is protected private health information. Patients should not have to weigh access to the fund against the prospect of that kind of questioning.

Suggested language:

> (3) interview claimants and patients, provided that a patient interview shall be limited to facts necessary to verify the patient's eligibility for the fund and whether the services or products claimed were furnished as billed, and shall not include questions regarding the patient's medical or behavioral health condition, history, or experience of treatment;

4. Clarify who applies, who attests, and key terms

The rule addresses several audiences at once: patients, certifying clinicians, practitioners, healing centers, and producers. Clear answers to who does what are an equity measure in their own right. A patient reading the rule should be able to tell quickly where to start and which steps are theirs.

- **Identify the applicant (7.35.4.9(A)).** State who may submit an application. For example: "An application may be submitted by the qualified patient, the patient's caregiver or authorized representative, or the clinician's billing employee or contractor, on the patient's behalf."
- **Require the patient's own authorization (7.35.4.9(B)(5)).** The authorization to verify eligibility information concerns the patient's income, residency, and benefits. Privacy best practice calls for a release signed by the patient, even when a provider or representative submits the application.

- **Apply a knowledge standard to the attestation (7.35.4.9(B)(6)).** A provider applying on a patient's behalf can attest only that the information is true and complete to the best of the provider's knowledge, based on the patient's representations. We suggest: "an attestation that the information submitted is true and complete to the best of the applicant's knowledge."
- **Define "enrolled" (7.35.4.8(A)(1), (D)(1)).** The rule does not define when a patient is enrolled or how current enrollment is verified. We suggest tying enrollment to a current, valid medical psilocybin program identification number, and providing that the Department will verify enrollment from its own records. If funds run short, clarity about when a patient enrolled may matter for how applications are prioritized.
- **Confirm that "qualified patient" carries its statutory meaning (7.35.4.2, 7.35.4.8(A)).** The term is defined by statute and incorporated through 7.35.2.7 NMAC. Stating that fund eligibility is determined separately under 7.35.4.8 would prevent the term from being read to include the income test.
- **Use "claimant" consistently (7.35.4.10 through 7.35.4.12).** The term appears to mean the provider or entity seeking payment, but in places it can be read to include the patient. A short definition, together with a note identifying any steps patients take themselves, such as travel claims under 7.35.4.14(C), would make the process easier to follow.

Setting coverage rates for non-covered services

The rules anticipate rate setting for services without a direct Medicaid analog, most obviously the psilocybin medicine itself and the administration day monitoring costs. Reimbursement for these components of care will be a key function of the Fund as the products and services that are universally not covered by health insurance. A session usually runs six to eight hours with continuous in-person support. Rates set below the cost of complying with program rules on an administration day would leave few providers able to accept fund patients.

The price points developers of synthetic psilocybin are discussing suggest the total cost of treatment could be high to form the baseline for The Fund's rate. We offer the alternative analogs below to help the Department set a reasonable rate.

Analogy	Justification	Additional Considerations
Spravato (esketamine) monitoring	The closest medical model of a supervised psychoactive treatment with required in-office monitoring (2-hour observation period)	Spravato is reimbursed in NM in two ways. Medicare patients are billed under a bundled G-code that bills the drug, medical evaluation on administration day, and observation period at $952.00 or 85% of that for nurse practitioners. Medicaid and commercial insurance patients are typically coded with a standard outpatient code and a prolonged clinical staff tracking code every 15 minutes for the two hours, which typically translates to between $150.00-$525.00 per 2-hour session. How might this compare to

		what is reasonable and sustainable under The Fund?
Emergency Mental Health Evaluation and Care Detention (43-1-10 Hold)	Requires the kind of professional attention to a person in an altered state of consciousness	Billing under this analog often involves prolonged observation and would be adjusted to an appropriate period of observation. For community mental health centers or crisis stabilization units operating under New Mexico Human Services/Health Care Authority guidelines, specific HCPCS codes may apply to this period of observation if structured through state-contracted behavioral health programs. Would The Fund receive a similar billing structure for post-dosing observation?
Peer support	A floor for non-clinical presence and basic observation	The 15-minute increment billing protocol would be challenging in a 6 - 8 block of time.

We would welcome the opportunity to collaborate directly to develop these rates with the Department.

From:	Ian Dunn
To:	Clark, Jacob, DOH
Subject:	[EXTERNAL] Public Comment: Prposed Rule 7.35.4 NMAC Medical Psilocybin Treatment Equity Fund
Date:	Tuesday, November 10, 2026 7:20:53 AM
Attachments:	publickey - idunn.nm@pm.me - 0x0DABD13C.asc signature.asc

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Dear New Mexico Department of Health,

My name is Ian Dunn, and I serve as Chair of the Medical Psilocybin Advisory Board. I am writing in support of the proposed administrative rules. While there remain areas for refinement, these rules establish a solid foundation for the equity fund.

I respectfully submit the following recommendations for consideration:

Proof of Residency

1. **Tribal Identification:** Exempt applicants presenting a tribal identification card from secondary residency documentation if the card displays a New Mexico address.
2. **Consular Identification:** Explicitly authorize the use of a *Matrícula Consular* or equivalent consular identification document bearing a New Mexico address.
3. **Federal Identification:** Explicitly permit valid federal photo identification paired with standard proof of New Mexico residency.

Mileage Reimbursement

1. **Hardship Exception:** While a 100-mile threshold is a reasonable general baseline, the Department should include a formal hardship exception. While driving 100 miles may only present an inconvenience for mobile individuals, it creates an insurmountable barrier for patients who cannot drive, lack reliable access to private transportation, or reside in underserved transit areas.

Thank you very much for your time, effort, and dedication to developing these regulations. It is evident that deliberate and thoughtful consideration went into drafting these rules.

Sincerely,
Ian Dunn
Chair | Medical Psilocybin Advisory Board
State of New Mexico